

**SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**MARCH 4, 2013**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

**The meeting was called to order at 7:00 P.M.**

**Mr. Flaherty read the following disclaimer: The Town Council meeting is being filmed by a town volunteer. We appreciate his efforts to allow residents to view the proceedings on local cable. The town is not responsible for the taping.**

**The prayer and the pledge to the flag followed. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Also in attendance were Town Administrator Hamilton and Town Solicitor Lombardi.**

**ZONING ORDINANCE AMENDMENTS TO SECTION 17**

**As Town Planner Robert Ericson explained, there is a problem with this ordinance dating back to 2006 in that the Town Clerk has no record of the Town Planner reporting the results of Planning Board consistency review nor is there a final clean copy for Section 17 with Town Council signatures. The Section 17 Development Plan Review amendments exist in the separately published Zoning Ordinance but not in Municode Appendix A (Zoning Ordinance), which is the certified edition.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to refer this ordinance to the Planning Board for consistency with the Comprehensive Plan.**

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### **MU1 AND MU2 ZONING MAP**

**Mr. Flaherty explained the MU Districts narrative had been enacted in March of 2012 but there was no map, which would be for the redevelopment of Branch Village.**

**Mr. Ericson noted the MU Districts would be mixed use for residential and commercial and mixed use for manufacturing and commercial.**

**Mr. Flaherty stated the planning work started in 2007. A task force, consisting of members of various town boards and business owners from the district, was established and acquired grants to hire a consultant to do a visioning for the district. This resulted in the completion of a study, adopted by the Planning Board and the Town Council, to see what kind of business development opportunities might be available. This led to a second grant to do a second study which did a more detailed transportation and build-out analysis. The goals were to create more revenue sources and to raise property values within the district as well as those next to the district.**

**Based on the work of Mr. Flaherty and others, the town is now**

**applying for a federal economic development agency grant that will allow planning for sewers in the Branch Village area.**

**Mr. Jay Freitas, a member of the North Smithfield Redevelopment Agency, commented this is the beginning of a long-term project. By first getting zoning issues approved, the town can then focus on what type of development would be best suited for the area. It could take fifteen to twenty years.**

**Some of the concerns raised by residents included effects on property values, traffic, smell and noise levels, flooding in the Cherry Brook area, the environmental impact, buffer zones for the residential properties, the vagueness of the plan and designating open space as open space and not as an MU district.**

**Planning Board member Kerri Tunnickliff felt it would be helpful to include what type of development is allowed to ease some concerns.**

**Mr. Flaherty noted that there is a website with specific information and data regarding the MU district that is in the process of being transferred to the town's website. It shows the topography and it shows where development can occur. He suggested that the public hearing be continued to a time when that process has been completed.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted**

**unanimously on an aye vote to continue the public hearing to April 15, 2013.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on an aye vote to consider this the first reading for the amendments to the zoning map.**

### **ZONE CHANGES TO BUSINESS HIGHWAY**

**Mr. Steven Wowk of 131 Cider Mill Road did meet with town officials, Steven Flagg of Flagg RV and Mark Anderson of Heritage Design regarding this zone change. The only result he feels he received from Mr. Flagg was take it or leave it. It was suggested that there be a buffer zone as well as restrictions but Mr. Wowk was not sure what would happen once Flagg RV leaves. The neighbors in the area do not want it to change.**

**According to Mr. Ericson, when Mr. Flagg appeared before the Planning Board, there appeared to be a large buffer zone. When he went to the meeting with the neighbors, there was a much smaller buffer zone.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to close the public hearing.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to leave the existing zones of Plat 1,**

**Lots 124, 136, 326, 356, 128, 157 and 150 as they currently are listed. This is contrary to the recommendations listed in the Comprehensive Plan.**

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### **CHICKEN HENS ORDINANCE**

**Mr. Flaherty commented that the use table allows chickens to be kept in all residential zones except RU20.**

**Mr. Ericson noted this is basically the same as the Barrington ordinance but the Planning Board did make some suggested changes.**

**Mr. Flaherty stated that some people would like to have chickens on their property and this ordinance provides a mechanism to remove chickens if they are not kept properly.**

**Mr. McGee didn't like the ordinance. He thinks it will be a nightmare and the town will not be able to control it.**

**Mr. Zwolenski felt the chickens could attract other wild life. He questioned who would enforce the ordinance.**

**Mr. Flaherty responded that, if there is a complaint, the building**

**inspector would investigate, and if the coop does not conform to the ordinance, it would be grounds to have the coop removed.**

**Mr. Yazbak was looking for a North Smithfield version of the proposed ordinance. The one that was included in the packet has strikeouts in it.**

**Mr. Ericson explained this was an adaptation of the Barrington ordinance and it included strikeouts where the North Smithfield Planning Board made suggestions.**

**This is the same problem Mr. Yazbak has had with other ordinances in that it is already being amended before it gets to the Town Council.**

**He felt the better way to handle it is to have the sponsor of the ordinance bring it forth and once that happens the Planning Board can weigh in. Then the Council can adopt if it chooses.**

**Because there were more questions regarding procedure, MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to take a five-minute recess at 8:49 P.M.**

**The meeting resumed at 8:55 P.M.**

**Mr. Ericson presented a petition signed by eight residents in support of being able to have chickens.**

**Ms. Brenda Ball feels people should be able to have the choice as to whether they want to have chickens or not.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue the public hearing to April 15, 2013.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 1 (Mr. Yazbak voted no on a technicality) on a roll call vote to accept this ordinance for a first reading.**

#### **SOVEREIGN BANK INVOICE**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to approve funding of \$1,394.20 to pay off the capital lease for the 2011 Crown Victoria that was damaged in an accident on December 19, 2012 with funding to come out of the contingency fund as recommended by the Finance Director.**

#### **APPOINTMENT OF 2ND ALTERNATE TO PLANNING BOARD**

**There was no appointment.**

#### **APPOINTMENT TO SEWER COMMISSION**

**There was no appointment.**

#### **APPOINTMENT OF 2ND ALTERNATE TO ZONING BOARD**

**There was no appointment.**

## **PELOQUIN PROPOSED ZONE CHANGE - PLAT 7, LOT 28**

**Mr. Ericson stated that within the Comprehensive Plan there are 62 rezoning areas. Mr. Peloquin's lot falls within an area that was**

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**intended to change to all Rural Estate Agriculture (REA). He wanted to go from REA to Rural Agriculture (RA) on one-half of his property. The Planning Board found inconsistency with the Comprehensive Plan so Mr. Peloquin can go no further at this time. The Planning Board is going to process the REA changes. The Council may opt to change the zone for the Peloquins at a later time.**

**RESOLUTION RE: CERTIFIED SCHOOL TEACHERS' ARBITRATION MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted unanimously on a roll call vote to adopt the following resolution: "WHEREAS, current Rhode Island state law does not provide for mandatory continuation of an existing teacher collective bargaining agreement; and WHEREAS, a Rhode Island Superior Court justice recently ruled that state statute, defining when a contract ends, obviates any clause, agreed to, allowing for a continuation of a public employee contract; and WHEREAS, Rhode Island school districts and cities and towns have seen a calamitous reduction of state aid; and WHEREAS, there exists a \$120 million dollar revenue/expenditure gap in the FY2013 budget and cities and towns, from FY2007 - FY2012 have lost over \$185 million general revenue**

sharing and auto excise reimbursement; and WHEREAS, Rhode Island taxpayers are already burdened by some of the highest property taxes nationally; and WHEREAS, Rhode Island school districts and cities and towns must comply with RIGL §44-5-2, that caps the property tax levy at four percent; and WHEREAS, according to §16-2-9(d) “The school committee of each school district shall be responsible for maintaining a school budget which does not result in a debt” and WHEREAS, school committees may require employee concessions to comply with the aforementioned state law; and WHEREAS, House Bill 2013 - H5340, as well as prior legislative acts, have proposed changes in state law that would mandate that an expired contract shall continue unchanged indefinitely thus forcing districts to possibly violate RIGL §44-5-2 and §16-2-9(d). NOW, THEREFORE, BE IT RESOLVED, that we, the Town Council of the Town of North Smithfield, respectfully requests the Rhode Island General Assembly oppose House Bill 2013 - H5340 and any other legislative proposal that would mandate arbitration and contract continuation in expired teacher collective bargaining agreements. BE IT FURTHER RESOLVED, that we, the Town Council of the Town of North Smithfield, do hereby entreat the various Rhode Island City and Town Councils to contact their legislative delegations, seeking opposition to House Bill 2012 - H5340 and any act that would mandate arbitration and contract continuation.”

**RESOLUTION IN SUPPORT OF CHANGING SCHOOL COMMITTEE  
LAYOFF NOTIFICATION DATE**

**MOTION by Ms. Alves, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to adopt the following resolution: “WHEREAS, Chapter §16-13 of the Rhode Island General Laws entitled “Teacher Tenure” requires school districts to notify individual teachers by March 1st that their contract for the following year will not be renewed; and WHEREAS, All school districts have not yet had their budget request ratified by their respective city or town councils by March 1st; and WHEREAS, This uncertainty requires school districts to issue more layoff notices than are necessary; and WHEREAS, This creates unnecessary anxiety and stress for teachers receiving layoff notices; and WHEREAS, Most, if not all, of the uncertainty, stress and anxiety resulting from the early layoff notice could be remediated by moving the date from March 1 to June 1. NOW, THEREFORE, BE IT RESOLVED, That the North Smithfield Town Council urges the General Assembly to pass 2013 - S 49, by Senator DiPalma and 2013 - H 5066 by Representative Ruggiero, moving the teacher layoff notice deadline from March 1 to June 1. BE IT FURTHER RESOLVED, That a copy of this Resolution be forwarded to every State Senator, State Representative and the Governor.”**

**RESOLUTION IN SUPPORT OF DENYING BINDING ARBITRATION FOR TEACHERS**

**MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on a roll call vote to adopt the following resolution: “WHEREAS, Current state law does not provide for mandatory binding arbitration on monetary matters for school teachers and**

**other school employees; and WHEREAS, Payroll cost is the largest single expenditure in the North Smithfield school and town budgets; and WHEREAS, There exists a revenue/expenditure gap in the current state budget; and WHEREAS,**

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**North Smithfield taxpayers are already burdened by some of the highest property taxes in the nation; and WHEREAS, The North Smithfield Town Council must comply with RIGL §44-5-2, that caps the property tax levy imposed by municipalities; and WHEREAS, According to §16-2-9(d) “The School Committee of each school district shall be responsible for maintaining a school budget which does not result in a debt”; and WHEREAS, Mandatory binding arbitration would deprive locally elected officials the ability to control the biggest component of their local budgets (a feature that they were elected to do by the taxpayers of North Smithfield); and WHEREAS, The proposed mandatory binding arbitration legislation being advanced by its proponents does not take into account student welfare, conformation with existing property tax caps (R.I.G.L. 44-5-2), recognition of management responsibilities, the cost of implementing the Basic Education Proram and other unfunded mandates. NOW, THEREFORE, BE IT RESOLVED, The North Smithfield Town Council respectfully requests the Rhode Island General Assembly to oppose and reject any and all mandatory binding arbitration legislation currently being considered for teacher and other school employee contracts; and BE IT FURTHER RESOLVED, A copy of this Resolution**

be forwarded to every State Senator, State Representative and the Governor.”

## **FRAMEWORK FOR FUTURE CONTRACT NEGOTIATIONS**

The former Town Council had approved a framework for contract negotiations that expired in December 2012. Mr. Flaherty stated the Council could reaffirm or modify that one if they chose. He suggested a few modifications.

Discussion followed about a sliding scale for health care co-shares and comparisons from one department i.e. police/fire, municipal employees or school department employees to those of other communities.

**MOTION** by Ms. Alves, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to adopt the following framework for future contract negotiations as amended:

**January 1, 2013 to November 30, 2014**

The following shall serve as Town Council guidelines to the Administration for use in its negotiations of any and all labor contracts.

- 1. Town Council will not approve any union contract without a public hearing per town ordinance.**

- 2. Basic framework and guideline**

- **Raises - Depending on**
  - **Town Finances**
  - **Length of time since last raise**
  - **Comparable salaries of police/fire, municipal employees, school departments in similar sized communities in RI**
  - **Relative to Consumer Price Index/Inflation Factors**
- **Holidays - Major National Holidays only**
- **Vacation Time - No more than 3 weeks**
- **Sick Time - Phase out to no more than 5 days per year**
- **Longevity - Phase out of all longevity bonus payments**
- **Uniform Allowances, if applicable, should be on a “reimbursement basis” after receipts are submitted**
- **Retiree Health Care - Payable for 5 years after retirement**
- **Reduce health insurance buy-back to no more than \$2,000.00**
- **Health Care Co-Share based on prior calendar year W-2 - Box 5 - Medicare Wages paid**
  - **Over \$75,000 - 40% co-share**
  - **\$50,000 to \$74,999 - 30% co-share**
  - **\$25,000 to \$49,999 - 20% co-share**
  - **Under \$25,000 - 10% co-share**
  - **All new hires 20% co-share**

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## **AWARD OF BID RE: FLYGT PUMP**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to revoke the bid that had been awarded to D & S in January 2013 as they cannot fulfill the order and have asked to be removed from the bid process.**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to award the bid for the FLYGT pump to Industrial Pump Sales & Service Inc. for the reduced amount of \$11,985.00 based upon the recommendations of the finance director and the town administration.**

## **AGREEMENT WITH CITY OF WOONSOCKET FOR COMMUNITY DEVELOPMENT BLOCK GRANTS PROFESSIONAL ADMINISTRATIVE SERVICES**

**As explained by Mr. Ericson, Woonsocket manages a large Community Development Block Grant budget, so they have specialists in HUD compliance, client intake, project management and inspection to HUD standards. It would be prohibitive for North Smithfield to train its own people so he presented the 2013 version of the contract.**

**Mr. Zwolenski noted that any associated fees would come out of the CDBG funding.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to enter into an agreement with the City of Woonsocket for Community Development Block Grants Professional Administrative Services.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to authorize the Town Administrator to execute the agreement.**

### **CHERRY BROOK**

**Mr. Ericson stated that he and the Planning Board are continuing to seek funding to conduct a hydrological study that could lead to remedial options of this area that is vulnerable to flooding. The cost could be approximately \$30,000.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to adjourn at 9:30 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**